

FRIDAY, NOVEMBER 4, 1977

## Vietnam



relations with the West is obviously moving in a positive direction, this has been dictated by Vietnam's geopolitical situation. Given the policy direction of key decision-makers in the Government, which favors a gradual process of assimilation of the South and closer ties with Western business, especially United States business and industry, it is likely that the internal and external problems, though difficult, may not remain insurmountable for long.

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## Which Rule of Law?

By Tom Wicker

No one who has known Richard Helms over the years would wish for him to have suffered more severely in the plea bargain he recently struck with the Department of Justice. And perhaps all the justifications for that bargain are valid. Still, to borrow a phrase from Attorney General Griffin Bell, this agreement doesn't "set well."

Mr. Bell told President Carter last July 25 that there appeared to be a prosecutable perjury case against Mr. Helms, a former director of the Central Intelligence Agency, for lying to a Senate committee about C.I.A. operations in Chile. Mr. Carter authorized Mr. Bell to begin plea bargaining with Mr. Helms.

As a result, Mr. Helms pleaded no contest (no contest) to two misdemeanor counts, rather than stand trial on the perjury charge (a felony). As part of the deal, the Department of Justice recommended that he not be sentenced to prison; but Judge Barington D. Parker, in accepting the plea, reserved the right to impose whatever punishment he saw fit. At worst, that could be a year in prison and a \$1,000 fine on each count.

Mr. Bell said criticism of this arrangement didn't "set well" with him because no other high intelligence official ever had been held accountable to the law. Mr. Helms's plea recognized that accountability, and therefore, in Mr. Bell's view, the arrangement "sets the intelligence community out on a new course" of obedience to the law.

If Mr. Helms had been brought to trial for perjury, moreover, he might have won acquittal; after all, his stated reason for lying to the Senate was that he was acting in the line of duty to protect national secrets and security. That might well have been persuasive to a jury.

Finally, Mr. Bell and other Justice Department sources suggested, to bring Mr. Helms to trial risked the disclosure of Government secrets, since his counsel would have forced numerous classified documents into evidence in his defense. For all these reasons, the plea bargain was considered the most effective, least troublesome way to uphold the rule of law and the Senate's right to investigate.

Maybe so. But some nagging questions persist.

Did those secrets that might have been exposed, for example, include some names of other high-level persons—now or formerly—that might have had to be prosecuted or bargained with, if they became known? Is it really secrets the bargain protects, or reputations?

Or, as in the Nixon Administration's efforts to prevent publication of the Pentagon Papers, is it secrets or even reputations being protected so much as the system of secrecy, the idea that secrecy is vital? Suppose all those secrets that Mr. Helms's defense would have exposed turned out to be no more "vital" than those in the Pentagon Papers?

As for the possibility that Mr. Helms might have won acquittal, would that necessarily have been less "deterrent" to the intelligence community than the plea bargain Mr. Helms made? The plea was more certain than a jury's decision, but the sight of a former high official in the dock might have dramatized even more effectively the point that the C.I.A. is not above the law.

The plea arrangement might even signal to some of those who could be tempted to offend in the future not that they would be forgiven but that they could reasonably gamble on the kind of special consideration Mr. Helms received. (Judge Parker's sentence might go far to eliminate this possibility, but not if he follows the Justice Department recommendation.)

The Helms plea also raises the question of John J. Kearney, the former high official of the Federal Bureau of Investigation, who has been indicted

## IN THE NATION

on charges of having supervised illegal mail openings and wiretaps. No doubt Mr. Kearney could spill some secrets, too; no doubt a jury might be sympathetic to his claim that he, too, was doing his sworn duty to protect the national security.

Will Mr. Kearney also be allowed a nolo plea to a misdemeanor? If so, Griffin Bell's efforts to assert the rule of law over the intelligence community will begin to look a little feeble.

And anyway, after former Vice President Agnew escaped prosecution through a nolo plea, agreed to in another Justice Department arrangement, after Richard Nixon received a pardon for any and all offenses he might have committed while President, and at that from the man Mr. Nixon had appointed to succeed him; and after the relatively light penalties handed out to all the Watergate defendants except Gordon Liddy—after that long record of lenient law for the high and the mighty, those who are judged by a different scale of values might already be wondering which rule of law Mr. Bell is talking about.